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UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 15 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT E. USNER, GLENDA K. GRISWOLD,
OMAR EL-KAISSI, JAMES CHURCH, JAY PAUL DRUMMOND,
DALE BLACKSON, LILEI CHEN, BOB A. CICHON, MARK S. COVERT,
BRADRICK Q. LEPPER, MARK A. MOALES, MARK D. SMITH,
ROBERT J. LEMLEY, MICHAEL E. CALIFF, JR., SHAWN D. JOYCE,
PHILLIP S. MOORE and STEVEN C. SWINGLER

Application No. 09/193,647

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on August 9, 2002. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On January 22, 2002, appellants filed an Appeal Brief (Paper No. 15). On April 9, 2002, the examiner mailed an Examiner's Answer (Paper No. 16). On page 3, section (10) of the Examiner's Answer, the examiner states the rejections of claims and further states that the rejections are set forth in prior office actions, namely, Paper Nos. 7 and 10. According to the Manual of Patent Examining Procedure (MPEP) § 1208(A) (7th ed., July 1998):

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Examiners may incorporate in the answer their statement of the grounds of rejection merely by reference to the final rejection (or a single other action on which it is based, MPEP § 706.07). Only those statements of grounds of rejection appearing in a *single* prior action may be incorporated by reference. An examiner's answer should not refer, either directly or indirectly, to more than one prior Office action.

Furthermore, MPEP § 706.07 states:

In making the final rejection, all outstanding grounds of rejection of record should be carefully reviewed, and any such grounds relied on in the final rejection should be reiterated. They must also be clearly developed to such an extent that applicant may readily judge the advisability of an appeal unless a single previous Office action contains a complete statement supporting the rejection.

A review of the application reveals that the examiner refers to more than one single Office action when stating the grounds of rejection, namely, at least two Office actions. Therefore, the Examiner's Answer does not comply with the requirements set forth in MPEP §§ 706.07 and 1208(A).

Accordingly, it is

ORDERED that the application is returned to the examiner in order to place the Examiner's Answer in compliance with the MPEP, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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